IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.127 OF 1998

The Commissioner of Income-tax,
Bombay City - XII, Bombay .. Applicant.
V/s.
M/s.Tolani Shipping Co. Ltd. .. Respondent.

Mr.Suresh Kumar for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> Whether in the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of sec.40A(5) are not applicable in respect of salary, allowances etc. paid to the members of staff on board on the ships of Indian Company when they are no high seas, thereby deleting the addition of Rs.2,20,385/- made under that section ?

2. The above question has already been answered by the Division Bench of this Court in the case of **CIT V/s. Indo Oceanic Shipping Co.Ltd. [(2001) 247 I.T.R. 247 (Bom)]** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Indo Oceanic Shipping Co.Ltd. Reference, accordingly stands disposed of with no order as to costs.

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